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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 10/526,187   | 10/25/2005  | Eduardo Anitua Aldecoa | ANTUA4              | 6873             |
| 1444 7590 06/09/2008<br>BROWDY AND NEIMARK, P.L.L.C.<br>624 NINTH STREET, NW<br>SUITE 300<br>WASHINGTON, DC 20001-5303 |             |                        |                     |                  |
| EXAMINER<br>BUMGARNER, MELBA N   |             |                        |                     |                  |
| ART UNIT   |             | PAPER NUMBER           |                     |                  |
| 3732   |             |                        |                     |                  |
| MAIL DATE  |             | DELIVERY MODE          |                     |                  |
| 06/09/2008   |             | PAPER                  |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,187

**Applicant(s)**

ANITUA ALDECOA, EDUARDO

**Examiner**

Melba Bumgarner

**Art Unit**

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2008 and 15 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5, 7, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Recitation of “the connectors” in claim 1 lacks sufficient antecedent basis. In claims 3-5, 7 and 8, it is unclear what connector(s) is being limited since the first and second connectors are claimed in the alternative in claim 1.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorenzi (2002/0094508) in view of Strong et al. (2002/0172923) and further in view of Danger (6,179,616). Lorenzi discloses a set of motor-driven instruments comprising osteotomes of progressive diameters, the osteotomes having an apical end, threaded conical section and a threaded cylindrical section, and an adjustment area (figure 1), two drills of different diameters comprising ends for connection to a surgical motor (figure 2), and connector for coupling to a dental drill or surgical hand wrench [0022]; however, Lorenzi does not show starter drill. Strong et al. teach a set of dental instruments comprising a starter drill [0011] that is smaller in section

than the osteotomes comprising an end for connection to a surgical motor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a starter drill as in Strong et al. to make an initial hole to prepare the implant site in view of Strong et al. The starter drill [0013] of Strong et al. comprises a standard dental drill and do not show specific shape of the end of the drill. It would have been obvious to one of ordinary skill in the art as to the specific shape of the section end of a dental drill; furthermore, the section end is not shown to be critical to the claimed set. However, Danger is cited to teach a dental drill comprising a quadrangular-section end. It would have been obvious to one of ordinary skill in the art to have the quadrangular shape of the section end on the dental drill in order to have additional cutting edges or portions in view of Danger. Lorenzi shows a connector having an extension for connecting to a dental drill and a connector for connecting to a ratchet wrench [0022], figure 2 shows connector with shape different for connecting to drill and wrench.

5. Claim 2 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Lorenzi in view of Strong et al. and Danger and further in view of Lazzara et al. (6,290,499). The modified set of instruments shows the limitations as described above and Lorenzi discloses adjustment area comprising a polygonal-section projection; however, they do not show the cylindrical projection section. Lazzara et al. teach instrument for fixing dental implants comprising dental component having an end capped by a cylindrical projecting section creating a circular recess 132 in which an O-ring seal 168 is housed. It would have been obvious to one having ordinary skill in the art to further modify the adjustment area to have the section of Lazzara et al. in order to secure components of the instruments. It would have been an obvious matter of choice to one of ordinary skill in the art to have a polygonal projection that is hexagonal instead of quadrilateral.

6. Claims 3, 7, and 8 are rejected as understood, under 35 U.S.C. 103 (a) as being unpatentable over Lorenzi in view of Strong et al., Danger, and Lazzara et al. and further in view of Misch et al. The modified set of instruments shows the limitations as described above; however, they do not show the connector comprising a blind axial recess. Misch et al. teach instrument for fixing dental implants comprising connector having an end comprising a blind axial recess with a polygonal section incorporating the o-ring seal (figure 5). It would have been obvious to one having ordinary skill in the art to further include the features of Misch et al. in the set of instruments in order to connect the working part of the instrument to a driving part. Misch et al. show embodiments of motor-driven and manual-driven connector ends comprising an extension or coupling area, the extension and coupling being of different shape.

#### ***Drawings***

7. The drawings are objected to because figures on page 4/4 are not labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Response to Arguments*

8. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection. As to arguments regarding Lorenzi reference, Lorenzi shows the limitation as claimed of the set of instruments comprising osteotomes of progressive diameters.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Melba Bumgarner/  
Primary Examiner, Art Unit 3732